

1 CHRISTOPHER CHIOU  
2 Acting United States Attorney  
3 Nevada Bar No. 14853

4 ALLISON J. CHEUNG, CSBN 244651  
5 Special Assistant United States Attorney  
6 160 Spear Street, Suite 800  
7 San Francisco, California 94105  
8 Telephone: (415) 977-8942  
9 Facsimile: (415) 744-0134  
10 E-Mail: allison.cheung@ssa.gov

11 Attorneys for Defendant

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MICHAEL J. SMITH,  
Plaintiff,

vs.

ANDREW SAUL,  
Commissioner of Social Security,  
Defendant.

)  
) Case No.: 3:20-cv-00325-WGC  
)

) **ORDER GRANTING UNOPPOSED MOTION**  
) **FOR EXTENSION OF TIME TO FILE**  
) **CERTIFIED ADMINISTRATIVE RECORD**  
) **AND ANSWER; DECLARATION OF JEBBY**  
) **RASPUTNIS**

) **(FIRST REQUEST)**  
)

1 Defendant, Andrew Saul, Commissioner of Social Security (the “Commissioner”), by and through  
2 his undersigned attorneys, hereby moves for a 60-day extension of time to file the Certified  
3 Administrative Record (CAR) and answer to Plaintiff’s Complaint. The CAR and answer to Plaintiff’s  
4 Complaint are due to be filed by March 29, 2021.

5 Defendant makes this request in good faith and for good cause, because the CAR, which must be  
6 filed with the Answer and is necessary to adjudicate the case, is not yet available. The public health  
7 emergency pandemic caused by COVID-19 has significantly impacted operations in the Social Security  
8 Administration’s Office of Appellate Operations (OAO) in Falls Church, Virginia, which is responsible  
9 for producing the CAR that must be filed with the Answer, per 42 U.S.C. §§ 405(g) and (h). As detailed  
10 in the attached declaration from Jebby Rasputnis, Executive Director of the OAO, beginning mid-March  
11 2020, OAO restricted physical access to the Falls Church building, which impacted the production of  
12 CARs because physical access was previously required to produce CARs. OAO has since developed and  
13 employed a new business process to produce CARs. Much of the difficulty in producing CARs stemmed  
14 from the old process of transmitting hearing recording to vendors for transcription, how the vendors  
15 transcribed the recordings, and how the vendors provided the completed transcripts to OAO. OAO  
16 changed this process by reworking how the audio files are submitted, seeking additional vendor capacity,  
17 and increasing in-house transcription capacity. With these changes, OAO is now able to produce more  
18 than 700 transcripts a week, a significant increase over the pre-COVID-19 average of 300–400 hearing  
19 transcripts a week.

20 Despite these improvements, OAO still faces a significant backlog of cases due to the combined  
21 effects of pandemic-related disruption and a marked increase in district court filings (up almost 800 cases  
22 per month, a 54% increase). Overall, the timeframe for delivering a CAR in an individual case has  
23 improved, and the current average processing time is 138 days. Because of this, OAO is making progress  
24 in its backlog of cases. At the end of January 2021, OAO had 11,111 pending cases. At the end of  
25 February 2021, OAO had 10,679 pending cases, representing a decrease in our backlog of more than 400  
26 cases. OAO continues to work on increasing productivity by collaborating with our vendors and  
searching out and utilizing technological enhancements. Defendant asks this Court for its continued

1 patience as OAO works to increase its efficiency and production of CARs, reduce the current backlog,  
 2 and address rising court case filings. Counsel for Defendant further states that the Office of General  
 3 Counsel (OGC) is monitoring receipt of transcripts on a daily basis and is committed to filing Answers  
 4 promptly upon receipt and review of the administrative records.

5 Given the volume of pending cases, Defendant requests an extension in which to respond to the  
 6 Complaint until May 28, 2021. If Defendant is unable to produce the certified administrative record  
 7 necessary to file an Answer in accordance with this Order, Defendant shall request an additional  
 8 extension prior to the due date.

9 On March 18, 2021, the undersigned conferred with Plaintiff's counsel, who has no opposition to  
 10 the requested extension.

11 It is therefore respectfully requested that Defendant be granted an extension of time to file the CAR  
 12 and answer to Plaintiff's Complaint, through and including May 28, 2021.

13  
 14 Dated: March 22, 2021

15 CHRISTOPHER CHIOU  
 Acting United States Attorney

16 /s/ Allison J. Cheung  
 ALLISON J. CHEUNG  
 Special Assistant United States Attorney

17  
 18  
 19  
 20  
 21  
 22 IT IS SO ORDERED:

23 William G. Cobb

24 UNITED STATES MAGISTRATE JUDGE

25 DATED: March 23, 2021